

## REMARKS/ARGUMENTS

### Status of Claims

Claims 1-9 are now pending. No claims stand allowed.  
Claim 1 has been amended to correct a minor informality. No “new matter” has been added by the amendment.

### Claim Objections

Claim 1 stands objected to for a minor informality. Claim 1 has been amended to insert --the-- before “vicinity” in accordance with the Examiner’s suggestion. With this amendment, it is respectfully requested the objection to the claim be withdrawn.

### The 35 U.S.C. §102 Rejection

Claims 1-3, 6, 4-6, 9, and 7 stand rejected under 35 U.S.C. §102(e) as being allegedly anticipated by *Cascone et al.* (U.S. Pat. No. 6,552,490 B1). This rejection is respectfully traversed.

35 U.S.C. §102(e) (pre-AIPA) provides that:

the invention was described in a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent or an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371 (c) of this title before the invention thereof by the applicant for patent. (emphasis provided).

The Applicants respectfully submit that cited reference *Cascone* is a continuation-in-part application which was filed on September 21, 2000 after the present application was filed on August 28, 2000, and based on (i) the present application, (ii) U.S. Patent

Application No. 09/626,315, filed on July 31, 2000, now U.S. Patent No. 6,456,009, and  
(iii) U.S. Patent Application No. 09/574,712, filed on May 18, 2000, now U.S. Patent No.  
6,211,657.

Submitted herewith for the Examiner's information is a copy of U.S. Patent No. 6,456,009 ('009 patent) and U.S. Patent No. 6,211,657 ('657 patent). By comparing the description of these two patents and that of the present application, it is clear that the description in *Cascone* ('490 patent) regarding the gun-only magnet and the vacuum electron device using the gun-only magnet is based on the present application, not the '009 patent or the '657 patent. Thus, with respect to the description on the gun-only magnet and the vacuum electron device using the same, the present application is the parent application of *Cascone*, and thus the present application should not be rejected based on an after-filed continuation application thereof.

Furthermore, submitted herewith as separate papers are 37 CFR §1.132 affidavits of the inventors, Edward L. Wright and Richard J. Dobbs, of the present application, stating that the description in the '490 patent (*Cascone*) regarding the gun-only magnet and the vacuum electron device using the gun-only magnet is based on their own invention which was first described in the present application.

Accordingly, *Cascone* is not an application before the present invention. Therefore, it is respectfully requested that the rejection of claims based on *Coscone* be

withdrawn. In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

In addition, please note that the applicants are filing a petition to correct inventorship for the '490 patent under 37 C.F.R. §1.324, pursuant to 35 U.S.C. §256. A copy of the petition will be sent for the Examiner's information.

Judicially-Created Double Patenting

Claims 1-9 have been rejected pursuant to the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 12-14 of the '490 patent (*Cascone*).

A Terminal Disclaimer in compliance with 37 CFR §1.321(c) and signed by an attorney of record, David B. Ritchie (Reg. No. 31,562) is submitted herewith to obviate this rejection. Accordingly, is respectfully requested that the obviousness-type double patenting rejection be withdrawn.

Common Ownership

The examiner requires the assignee, under 37 CFR §1.78 (c) and 35 U.S.C §132, to show that allegedly conflicting inventions of the present application and the '490 patent were commonly owned at the time the invention in this application was made, or name the prior inventor of the allegedly conflicting subject matter.

Submitted herewith is a statement from the assignee, Communications and Power Industries, Inc., stating that the claimed inventions were commonly owned or subject to an obligation of assignment to the same person at the time the later invention was made. Also submitted wherewith is a copy of the recorded assignments of the present application (executed on October 20, 2000 and November 20, 2000) and the '490 patent (executed on December 14, 2000 and December 17, 2000). Please note that Communications and Power industries, Inc. changed its name to Communications and Power industries, SATCOM division, but they are the same entity.

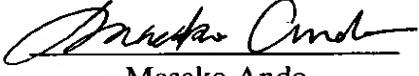
Request for Allowance

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Respectfully submitted,  
THELEN REID & PRIEST, LLP

Dated: November 24, 2003

  
Masako Ando  
Limited Recognition Under 37 CFR §10.9(b)

Thelen Reid & Priest LLP  
P.O. Box 640640  
San Jose, CA 95164-0640  
Tel. (408) 292-5800  
Fax. (408) 287-8040

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A PRIOR PATENT**
**Docket Number (Optional)  
SATC-005**

In re Application of: Edward L. Wright et al.

Application No. 09/649,479

Filed: August 28, 2000

For: Gun-Only Magnet Used for a Multi-Stage Depressed Collector Klystron

The owner\*, Communication & Power Industries, Inc. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,552,490. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1.  For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2.  The undersigned is an attorney of record.



November 24, 2003

Signature

Date

12/04/2003 HGUTEM01 00000002 09649479

David B. Ritchie, Reg. No. 31,562

02 FC:1814

110.00 OP

Typed or printed name

(408) 292-5800

Telephone Number

Terminal disclaimer fee under 37 CFR 1.20(d) is included.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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**STATEMENT OF THE ASSIGNEE, COMMUNICATIONS AND POWER  
INDUSTRIES, INC.**

I, Michael J. Cascone, am a vice president of Research and Development for the Communications and Power Industries, Inc. SATCOM division, and on behalf of the assignee, Communications and Power Industries, Inc, do hereby state that:

1. The claimed invention of the present application, U.S. Patent Application No. 09/649,479 (filed on August 28, 2000), and the claimed invention of U.S. Patent No. 6,552,490 (filed on September 21, 2000) were commonly owned or subject to an obligation of assignment to the same entity at the time the later invention was made.
  
2. I further declare that all statements made herein of my own knowledge are true and that all statements made upon information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

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Date: 11/24/03

Signature: Michael J. Cascone  
Michael J. Cascone



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OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

MARCH 09, 2001

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D'ALESSANDRO & RITCHIE  
DIANE MORSE  
P.O. BOX 640640  
SAN JOSE, CA 95164-0640



\*101569686A\*

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RECORDATION DATE: 12/19/2000

REEL/FRAME: 011377/0085  
NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:  
WRIGHT, EDWARD L.

DOC DATE: 11/20/2000

ASSIGNEE:  
COMMUNICATION & POWER INDUSTRIES,  
INC.  
607 HANSEN WAY  
PALO ALTO, CALIFORNIA 94303

SERIAL NUMBER: 09649479  
PATENT NUMBER:

FILING DATE: 08/28/2000  
ISSUE DATE:

JACQUELINE MOORE, PARALEGAL  
ASSIGNMENT DIVISION  
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Patent and Trademark Office

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To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Edward L. Wright

MLD  
10.19.00

Additional name(s) of conveying party(ies) attached?  Yes  No

3. Nature of conveyance:

Assignment  Merger  
 Security Agreement  Change of Name  
 Other \_\_\_\_\_

DEC 01 2003

Execution Date: November 20, 2000

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is: \_\_\_\_\_

A. Patent Application No.(s)

09/649,479

Additional numbers attached?  Yes  No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: D'Alessandro & Ritchie

Internal Address: \_\_\_\_\_

Street Address: P. O. Box 640640

City: San Jose State: CA ZIP: 95164-

0640

01/03/2001 DNGUYEN 00000059 09649479

6. Total number of applications and patents involved:  1

7. Total fee (37 CFR 3.41).....\$ 40.00

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

04-0025

(Attach duplicate copy of this page if paying by deposit account)

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9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Diane Morse

Name of Person Signing

Signature

Date

*Diane Morse*

12/13/00

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Total number of pages including cover sheet, attachments, and document:

Mail documents to be recorded with required cover sheet information to:  
Commissioner of Patents & Trademarks, Box Assignments

Washington D.C. 20231

## ASSIGNMENT

WHEREAS, we, Edward L. Wright, a citizen of the United States of America, residing at 4556 Oakdale Street, Union City, CA 94587, and Richard J. Dobbs, a citizen of the United Kingdom, residing at 69 Bower Street, Acton, Ontario, Canada L7J 1E4, have invented a "Gun-Only Magnet Used for a Multi-Stage Depressed Collector Klystron" for which we have executed application papers for a U.S. patent thereon which was filed on August 28, 2000, serial no. 09/649,479; and

WHEREAS, Communication & Power Industries, Inc., a Delaware corporation, having a place of business located at 607 Hansen Way, Palo Alto, CA 94303-1110, is desirous of acquiring the exclusive right, title and interest in and to said invention and in and to the Letters Patent to be granted and issued therefor in the United States of America and its territories and possessions, and all countries foreign thereto;

NOW, THEREFORE, for a valuable consideration, the receipt of which is hereby acknowledged, we, Edward L. Wright and Richard J. Dobbs, do sell, assign, transfer and set over unto the said Communications & Power Industries, Inc., its successors and assigns, the full and exclusive right, title and interest in and to said invention, and in and to any and all Letters Patent to be granted and issued therefor, not only for, to and in the United States of America, its territories and possessions, but also for, to and in all other countries including all priority rights under the International Convention; and we hereby authorize and request the Commissioner of Patents and Trademarks to issue said Letters Patent to said Communication & Power Industries, Inc., its successors and assigns, in accordance with this Assignment.

WITNESS MY HAND at Palo Alto, CA, this 20<sup>th</sup> day of  
November, 2000.

Edward L. Wright  
Edward L. Wright

Richard J. Dobbs  
Richard J. Dobbs



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
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RECORDATION DATE: 12/19/2000

REEL/FRAME: 011377/0083  
NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:  
DOBBS, RICHARD J.

DOC DATE: 10/20/2000

ASSIGNEE:  
COMMUNICATION & POWER INDUSTRIES,  
INC.  
607 HANSEN WAY  
PALO ALTO, CALIFORNIA 94303

SERIAL NUMBER: 09649479  
PATENT NUMBER:

FILING DATE: 08/28/2000  
ISSUE DATE:

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OMB No. 0651-0011 (2001-494)

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1. Name of conveying party(ies):

Richard J. Dobbs

MJD  
10.19.00Additional name(s) of conveying party(ies) attached?  Yes  No

3. Nature of conveyance:

 Assignment

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 Merger Security Agreement Change of Name Other

Execution Date: October 20, 2000

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)

09/649,479

B. Patent No.(s)

Additional numbers attached?  Yes  No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: D'Alessandro &amp; Ritchie

Internal Address:

Street Address: P. O. Box 640640

6. Total number of applications and patents involved:  1

7. Total fee (37 CFR 3.41).....\$ 40.00

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8. Deposit account number:

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9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Diane Morse

Name of Person Signing

Signature

12/13/00

Date

Total number of pages including cover sheet, attachments, and document:  2

## ASSIGNMENT

WHEREAS, we, Edward L. Wright, a citizen of the United States of America, residing at 4556 Oakdale Street, Union City, CA 94587, and Richard J. Dobbs, a citizen of the United Kingdom, residing at 69 Bower Street, Acton, Ontario, Canada L7J 1E4, have invented a "Gun-Only Magnet Used for a Multi-Stage Depressed Collector Klystron" for which we have executed application papers for a U.S. patent thereon which was filed on August 28, 2000, serial no. 09/649,479; and

WHEREAS, Communication & Power Industries, Inc., a Delaware corporation, having a place of business located at 607 Hansen Way, Palo Alto, CA 94303-1110, is desirous of acquiring the exclusive right, title and interest in and to said invention and in and to the Letters Patent to be granted and issued therefor in the United States of America and its territories and possessions, and all countries foreign thereto;

NOW, THEREFORE, for a valuable consideration, the receipt of which is hereby acknowledged, we, Edward L. Wright and Richard J. Dobbs, do sell, assign, transfer and set over unto the said Communications & Power Industries, Inc., its successors and assigns, the full and exclusive right, title and interest in and to said invention, and in and to any and all Letters Patent to be granted and issued therefor, not only for, to and in the United States of America, its territories and possessions, but also for, to and in all other countries including all priority rights under the International Convention; and we hereby authorize and request the Commissioner of Patents and Trademarks to issue said Letters Patent to said Communication & Power Industries, Inc., its successors and assigns, in accordance with this Assignment.

WITNESS MY HAND at Georgetown, Ontario, this 20<sup>th</sup> day of October, 2000.

---

Edward L. Wright

---

Richard J. Dobbs





UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

MARCH 21, 2001

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LOLA SALAZAR  
P.O. BOX 640640  
SAN JOSE, CA 95164-0640



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RECORDATION DATE: 12/27/2000

REEL/FRAME: 011408/0215

NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:  
CASCOME, MICHAEL J.

DOC DATE: 12/14/2000

ASSIGNOR:  
OIESEN, ERIC A.

DOC DATE: 12/17/2000

ASSIGNEE:  
COMMUNICATION AND POWER IND.,  
SATCOM DIVISION  
811 HANSEN WAY  
PALO ALTO, CALIFORNIA 94303

SERIAL NUMBER: 09668008  
PATENT NUMBER:

FILING DATE: 09/21/2000  
ISSUE DATE:

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Patent and Trademark Office

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101581239

tached original documents or copy thereof.

## 1. Name of conveying party(ies):

Michael J. Cascone  
Eric A. OiesenAdditional name(s) of conveying parties attached?  Yes  No

## 3. Nature of conveyance:

Assignment  Merger  
 Security Agreement  Change of Name  
 Other \_\_\_\_\_

Execution Date \_\_\_\_\_

## 2. Name and address of receiving party(ies):

Name Communication and Power Ind., SATCOM  
Division

Internal Address \_\_\_\_\_

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Street Address 811 Hansen WayCity Palo Alto State CA Zip 94303Additional name(s) & address(es) attached?  Yes  No4. Application number(s) or patent number(s): 09/668,008

If this document is being filed together with a new application, the execution date of the application is

A. Patent Application No. (s) \_\_\_\_\_

B. Patent No. (s) \_\_\_\_\_

Additional numbers attached?  Yes  No

## 5. Name and address of party to whom correspondence concerning document should be mailed:

Name D'Alessandro & Ritchie

Internal Address \_\_\_\_\_

Street Address P. O. Box 640640City San Jose State CA Zip 95164-06406. Total number of applications and patents involved 17. Total fee (37 CFR §3.41) ..... \$ 40.00 Enclosed Authorized to be charged to deposit account

## 8. Deposit account number:

04-0025

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01 FG:581 Statement and signature 40.00 DP

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Lola Salazar  
Name of Person Signing

Signature

12/27/00

Date

Total number of pages including cover sheet, attachments and document 2Mail documents to be recorded with required cover sheet information to:  
Commissioner of Patents & Trademarks, Box Assignments, Washington, DC 20231

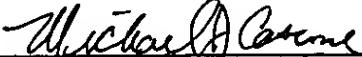
## ASSIGNMENT

WHEREAS, we, Michael J. Cascone, a citizen of the United States of America, residing at 678 Erie Drive, Sunnyvale California 94087 and Eric A. Oiesen a citizen of the United States of America, residing at 555 Park Drive, Ben Lomand, California 95005 have invented a "A Multiple Stage Depressed Collector (MSDC) Klystron Based Amplifier For Ground Based Satellite And Terrestrial Communications" for which we have executed application papers for a U.S. patent thereon which was filed on September 21, 2000, serial no. 09/668,008; and

WHEREAS, Communication and Power Industries, a SATCOM division a California corporation, having a place of business located at 811 Hansen Way, MS S-600, Palo Alto CA94303, is desirous of acquiring the exclusive right, title and interest in and to said invention and in and to the Letters Patent to be granted and issued therefor in the United States of America and its territories and possessions, and all countries foreign thereto;

NOW, THEREFORE, for a valuable consideration, the receipt of which is hereby acknowledged, we, Michael J. Cascone and Eric A. Oiesen, do sell, assign, transfer and set over unto the said Communication and Power Industries, its successors and assigns, the full and exclusive right, title and interest in and to said invention, and in and to any and all Letters Patent to be granted and issued therefor, not only for, to and in the United States of America, its territories and possessions, but also for, to and in all other countries including all priority rights under the International Convention; and we hereby authorize and request the Commissioner of Patents and Trademarks to issue said Letters Patent to said Communication and Power Industries, its successors and assigns, in accordance with this Assignment.

WITNESS MY HAND at \_\_\_\_\_, California, this \_\_\_\_\_ day of  
\_\_\_\_\_, 2000.

  
Michael J. Cascone 14 Dec 2000

  
Eric Oiesen DEC 17, 2000

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2000, before me, \_\_\_\_\_  
a Notary Public, personally appeared Michael J. Cascone and Eric Oiesen, personally known to me (or  
proved to me on the basis of satisfactory evidence) to be the person/s whose name is/are subscribed to  
the within instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacities, and that by his/her/their signature/s on the instrument the person/s or the entity  
upon behalf of which the person/s acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
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LIMITED RECOGNITION UNDER 37 CFR § 10.9(b)

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